



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

# DRAFT

Date Amended:	04/20/05	Bill No:	SB 555
Tax:	Property	Author:	Machado
Related Bills:			

## BILL SUMMARY

This bill, in part, would:

- Allow the "builders' exclusion" from supplemental assessment for the completion of new construction to be automatically granted to newly completed single family residences located in a residential subdivision, as specified. §75.12
- Immediately terminate a property tax exemption on a property when it is sold if the new property owner is not otherwise eligible for an exemption. §75.23
- Eliminate mandatory personal property audits of exempt entities. §469
- Allow the tax bill to serve as the notice of the taxpayer's right to appeal the assessment, so long as the tax bill itself contains the notice of the taxpayer's appeal rights. §534
- Provide that when the hearing officer decisions on assessment appeals constitute the final decision of the county assessment appeals board, the county board does not have to provide a (redundant) approval of that final decision. §1637

## ANALYSIS

### Supplemental Assessments

#### Existing Law

Existing property tax law requires property to be reassessed whenever there is a change in ownership or the completion of new construction. A "supplemental assessment" provides a mechanism for picking up a change in assessed value as of the date it occurs. The increase (or decrease) in assessed value is reflected in a prorated assessment (the supplemental assessment) that covers the portion of the fiscal year (July 1-June 30) remaining after the date of change in ownership or completion of new construction. For a changes in ownership or completed new construction occurring between January 1 and May 31, two supplemental assessments are issued. The first covers the portion of the current fiscal year remaining after the date of the event; the second covers the ensuing fiscal year in its entirety. An increase in assessed value results in a supplemental tax bill and a decrease in assessed value results in the issuance of a refund check. These supplemental assessments are entered into the "supplemental roll" and contain properties that have changed ownership or had new construction completed as opposed to the regular "assessment roll" prepared each fiscal year which contains all property in the county.

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**Builders' Exclusion.** Revenue and Taxation Code Section 75.12 provides what is commonly referred to as a "builders' exclusion" that exempts from supplemental assessment the completion of some new construction. The builders' exclusion only applies to the initial supplemental assessment for the completion of new construction and does not preclude the reassessment of construction on the assessment roll on the lien date following the date of completion of construction or to any other supplemental assessments on the property, such as the change in ownership related to the initial acquisition of the property. Typically, the exemption is extended to homes in new subdivisions as well as custom homes built by contractors on speculation. To qualify, the property owner must notify the assessor within 30 days of beginning construction that the property will be held for resale and will not be rented, leased, occupied or otherwise used until it is sold. A claim form is generally available from the assessor's office to request the builders' exclusion from supplemental assessment.

**Sale of Property Receiving a Tax Exemption.** Existing law exempts from property tax specified types of property or property owned by specified taxpayers. Typically, these exemptions include the welfare exemption (religious, hospital, charitable, and scientific uses of property) and the church exemption. In addition, most property owned by governmental entities, schools, and colleges are exempt from property tax. Persons eligible for one of the many property tax exemptions available may immediately receive the exemption as of the date they acquire the property via the supplemental assessment roll. However, if the exempt owner subsequently sells the property, the exemption does not immediately terminate. Revenue and Taxation Code Section 75.20 provides that any supplemental assessment levied should not affect an exemption which had been granted the property for either the current roll or the roll being prepared. Rather, the new property owner may enjoy a windfall since the property would continue to hold the prior owner's tax exempt status for as long as eighteen months, depending upon the date of acquisition.

### **Proposed Law**

**Builders' Exclusion.** This bill would amend Section 75.12 of the Revenue and Taxation Code to provide that a property owner is not required to file a claim with the assessor to receive the builders' exclusion, if the owner's property meets all of the following conditions:

- The property is subdivided into five or more parcels in accordance with the Subdivision Map Act
- A map describing the parcels has been recorded.
- Zoning regulations that are applicable to the parcels or building permits for the parcels require that, except for parcels dedicated for public use, single-family residences will be constructed on the parcels.

**Sale of Property Receiving a Tax Exemption.** This bill would add Section 75.23 to Revenue and Taxation Code to provide that notwithstanding Section 75.20, if a property undergoes a change in ownership and the property was receiving an exemption on the regular assessment roll (either the current roll or the roll being prepared), then the exemption will not apply to that property as of the date of the change in ownership

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where the new property owner does not otherwise qualify for that particular exemption. This bill would exclude from these provisions property for which the only exemption being granted on the property is the homeowners' exemption.

In practical application this would mean that a person who purchases a property that was previously exempt from property tax, would receive a supplemental assessment that would reflect full taxation of the property as of the date of purchase. The increase in assessed value resulting from the change in ownership upon which the supplemental assessment would be calculated would be the difference of zero (to reflect the prior tax exemption) and the new assessed value of the property.

### Comments

1. **Sponsor and Purpose.** The California Assessors' Association is sponsoring these provisions to provide (1) an automatic extension of the builder's exclusion in new residential subdivisions and (2) ensure equity in the property tax exemption process. Property owners may file a claim for the builder's exclusion on raw land prior to the initial subdivision of the property and construction of any homes. Consequently, after the subdivision of the property into individual parcels it is possible that a supplemental assessment is incorrectly made on some of the parcels within the subdivision. This requires costly roll corrections to reverse the supplemental assessment.
2. **Claim forms not required – automatic exclusion for residential subdivisions.** Effectively, in a residential subdivision that is owned by a single property owner (such as a builder-developer of a subdivision), the assessor would not issue a supplemental assessment for newly completed homes on lots within the subdivision.

### Mandatory Audits – Exempt Entities

#### Current Law

Personal property used in a trade or business is generally taxable, and its cost must be reported annually to the assessor on the business property statement as provided in Revenue and Taxation Code Section 441. Organizations that own personal property but are also eligible for a property tax exemption must also file a business property statement. Typically, these exemptions include the welfare exemption (religious, hospital, charitable, and scientific uses of property) and the church exemption.

Revenue and Taxation Code Section 469 requires county assessors to audit, at least once every four years, the books and records of any taxpayer engaged in a profession, trade, or business, if the taxpayer has assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as "mandatory audits."

Existing law also provides that an organization may be audited with respect to its eligibility for the property tax exemption (on its real and personal property). Specifically, Sections 254.5 and 254.6 provide that the assessor or the Board may audit the organization to ensure that it is eligible for the welfare exemption.

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### Proposed Law

This bill would amend Section 469 of the Revenue and Taxation Code to exclude from the requirement to audit the property holdings of a taxpayer that is otherwise fully exempt from property taxation under other provisions of law.

### Comments

**Sponsor and Purpose.** The California Assessors' Association is sponsoring this provision to better allocate limited staff resources. Currently, assessors are required to audit nonprofit organizations with large personal property holdings even though they are exempt from paying any property taxes on those holdings. This bill would provide that a fully tax exempt property does not require an audit beyond determination that the exemption is appropriately granted (i.e., once it is determined that the entity is exempt, a mandatory audit of its books and records once every four years is not necessary).

### Assessment Appeal Right Notification

#### Current Law

Revenue and Taxation Code Section 531.8 requires that prior to an escape assessment being levied a taxpayer must receive a "Notice of *Proposed* escape assessment."

Section 534 requires that when the assessor actually makes the escape assessment, to which the taxpayer was previously notified on the notice of *proposed* escape assessment, the notice must include appeal rights information, as specified. Section 1605 provides that in some cases, receipt of the tax bill, which also includes appeal rights information, suffices as notice.

#### Proposed Law

This bill would amend Section 534 to harmonize the provisions of that section related to assessment appeal rights notification to Section 1605, which allows the tax bill to serve as the escape assessment notification as well as provide the information concerning appeal rights. Prior to receiving a tax bill, the taxpayer would have received the "notice of proposed escape assessment."

### Comments

**Sponsor and Purpose.** The California Assessors' Association is sponsoring this provision to harmonize Sections 534 and 1605 which provide that receipt of the tax bill suffices as the formal notice of an escape assessment. All taxpayers would have also previously received the notice of proposed escape assessment, consequently taxpayers could receive up to three notices related to the single escape assessment.

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**Hearing Officers****Current Law**

Existing property tax law authorizes a county to appoint an assessment hearing officer to conduct hearings on specified taxpayer assessment protest applications and to make recommendations on these applications to the county board of equalization or county assessment appeals board. Section 1640 provides that the appeals board is bound by the decision of the hearing officer, unless pursuant to Section 1641, the board of supervisors adopts a resolution providing that the appeals board is not bound to the hearing officer's recommendation and the taxpayer or assessor may request a full hearing before the appeals board. Under either circumstance, the appeals board receives a copy of the hearing officer's report and conclusions.

**Proposed Law**

This bill would add Section 1641.5 to the Revenue and Taxation Code to authorize a county board of supervisors to adopt a resolution providing that the assessment hearing officer's decision constitutes the final administrative action by the county board of equalization or county assessment appeals board.

**Comments**

**Sponsor and Purpose.** This provision is sponsored by the California Association of Clerks and Election Officials to provide that in cases where the law provides that a decision by a hearing officer on an assessment appeal constitutes the final decision of the county assessment appeals board, the county board does not have to provide a (redundant) approval of that final decision.

**COST ESTIMATE**

This bill would not result in any costs to the Board.

**REVENUE ESTIMATE**

The provision relating to the sale of tax exempt properties would result in a minimal revenue gain since previously tax exempt properties would become taxable as of the date of its sale. The other provisions have no impact.

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